

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed February 23, 2005. Claims 1, 5-10, 19 and 22-29 are pending in the Application. Claims 1, 5-10, 19 and 22-24 and 26-29 are rejected and Claim 25 is objected to. For at least the reasons discussed below, Applicants respectfully request reconsideration and favorable action in this case.

Section 103 Rejections

The Examiner rejected Claims 1, 5-9, and 19 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,658,457 issued to Nishikawa et al. ("*Nishikawa*") in view of U.S. Patent No. 5,442,623 issued to Wu ("*Wu*").

Claim 1 of the present application recites the following:

A method for providing protection for connectionless signals in a telecommunications network comprising a plurality of nodes, the method comprising:

generating a first protection path for connectionless signals from each of the nodes to a destination node;

generating a second protection path for connectionless signals from each of the nodes to the destination node, the second protection path distinct from the first protection path such that the first and second protection paths do not have any common nodes or links; and

routing protection traffic along one of the protection paths to the destination node;

wherein generating the first protection path and generating the second protection path each comprise decomposing the telecommunications network into a ring and at least one ear.

Claim 19 recites similar, although not identical, limitations.

In order to establish a *prima facie* case of obviousness, three requirements must be met: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge available to one skilled in the art, to modify a reference or combine multiple references; (2) there must be a reasonable expectation of success; and (3) the prior art reference (or combination of references) must teach or suggest all of the claim limitations. M.P.E.P. § 2143. In the present case, a *prima facie* case of obviousness cannot be maintained at least

because (even assuming for the sake of argument that the references did suggest or motivate a combination of the references to a person of ordinary skill in the art at the time of the invention) *Nishikawa* and *Wu*, whether considered singly, in combination with one another, or in combination with information generally available to those of ordinary skill in the art at the time of the invention, fail to disclose all of the elements of the pending claims.

For example, Claim 1 recites that the second protection path is distinct from the first protection path *such that the first and second protection paths do not have any common nodes or links*. The Examiner previously cited to Column 6, lines 50-55 of *Nishikawa* as disclosing distinct paths. However, there is no teaching in this passage or anywhere else in the reference that the first and second protection paths do not have any common nodes or links. Furthermore, the Examiner indicates in the most recent Office Action that this limitation is taught by *Wu* at Figure 11 and Column 11, lines 25-30 and 47-55. More specifically, the Examiner asserts that protection paths 551 and 552 of *Wu* are the claimed first and second protection paths that do not have any common nodes or links. However, it is clear from Figure 11 that these two paths are between the same sets of nodes (nodes 510, 520 and 530). The Examiner appears to be relying on the fact that *Wu* defines the nodes as not including the protection optical switches (561, 562, 563, 571, 572 and 573). However, where the “box” is drawn in Figure 11 to define the “nodes” is arbitrary since the description clearly indicates that each of these protection switches is “associated with” a particular node. *Column 11, lines 50-52 and 55-56*. Furthermore, *Wu* explicitly describes that traffic on the protection paths is connected to the working optical switches of nodes 510, 520 and 530 when the associated protection switch is set to the “interconnection state.” *Column 12, lines 44-61*. Therefore, the protection optical switches should be fairly characterized as being part of the nodes, and thus *Wu* does not disclose that “*the first and second protection paths do not have any common nodes or links*,” as required by Claim 1. In fact, they share *all* of the same nodes. For at least these reasons, Claim 1 is allowable.

Furthermore, Claim 1 recites that “generating the first protection path and generating the second protection path each comprise decomposing the telecommunications network *into a ring and at least one ear*.” For a teaching of this limitation, the Examiner simply refers to protection paths 551 and 552 of *Wu*. Applicants respectfully fail to see how this is a teaching of the recited

limitation. Protection paths 551 and 552 are paths having a classic ring architecture. There is no disclosure or suggestion of decomposing the network into a ring *and at least one ear* to generate first and second protection paths, as recited in Claim 1. Again, by way of example and without limitation, Applicants direct the Examiner's attention to the discussion of network decomposition in the present Application with reference to FIGURES 2 and 3 on pages 9-12 of the "Detailed Description of the Invention." For at least this additional reason, Claim 1 is allowable.

Furthermore, Claim 19 contains limitations similar to those discussed above with reference to Claim 1. Therefore, for the reasons provided above, Applicants respectfully request reconsideration and allowance of Claims 1 and 19, as well as the claims that depend from these independent claims.

In addition to depending from an allowable independent claim, several of the dependent claims also include additional limitations not found in the cited references. For example, and without limitation, Claims 5, 6, and 7 all recite details of the decomposition of the network recited in Claims 1 and 19. Claim 5 recites "charting the ring horizontally beginning with the destination node and ending with the destination node," Claim 6 recites "ordering the ears and charting the ears horizontally based on the order of the ears," and Claim 7 recites "generating the first protection path in a first direction based on the charted ring and ears and . . . generating the second protection path in a second direction based on the charted ring and ears." For a supposed teaching of all of these limitations, the Examiner cites to the same passage of *Wu* that he cites to for Claim 1. As described above, that passage does not disclose or suggest decomposing a network. Furthermore, the passage clearly does not recite the further limitations of Claims 5, 6, and 7, and the Examiner makes no attempt to explain how any of these limitations are disclosed. For at least this additional reason, Applicants respectfully request reconsideration and allowance of Claims 5, 6, and 7.

Furthermore, the Examiner rejects Claim 10 under 35 U.S.C. § 103(a) as being unpatentable over the combined system (*Nishikawa and Wu*) in view of U.S. Patent No. 6,765,880 issued to Hillard ("*Hillard*") and rejects Claim 22-24, 26-29 under 35 U.S.C. § 103(a) as being unpatentable over the combined system (*Nishikawa and Wu*) in view of U.S. Patent No.

6,473,397 issued to Au ("Au"). Claims 10, 22-24 and 26-29 depend from independent Claims 1 or 19 and are allowable at least because they include the limitations of either Claim 1 or Claim 19, both of which have been shown above to be in condition for allowance. For at least this reason, Applicants respectfully request reconsideration and allowance of Claims 10, 22-24 and 26-29.

Allowable Subject Matter

Applicants note with appreciation the Examiner's indication that Claim 25 would be allowable if rewritten in independent form. However, Claim 25 depends from independent Claim 19, which is in condition for allowance, as discussed above. Accordingly, Applicants have not amended Claim 25.

CONCLUSION

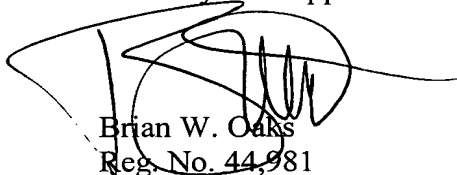
Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully requests full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Brian W. Oaks, Attorney for Applicants, at the Examiner's convenience at (214) 953-6986.

Applicants do not believe that any fees are due. However, the Commissioner is hereby authorized to charge any additional fees and credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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